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Re:            Application of:        Zver et al.  
              Serial No.:        10/743,339  
              Filed:            December 22, 2003  
              For:                Automated Bypass Method and Apparatus  
              Group Art Unit:       2836  
              Confirmation No.:     4710  
              Examiner:            Dru M. Parries  
              Our Docket No.:      2002P20644US01 (1867-0044)

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Sir:

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request. This request is being filed with a Notice of Appeal. The review is requested for the reasons stated on the attached sheets. This paper is filed by the Attorney of Record.

## **I. Reasons for Review**

The Examiner has failed to establish that claims 1-20 are obvious over the combination of U.S. Patent No. 6,292,379 to Edevold et al. (hereinafter “Edevold”) and U.S. Patent No. 6,923,285 to Rossow et al. (hereinafter “Rossow”). In general, the *clear error in the Examiner’s rejection* is in combining references that are nonanalogous art. The Examiner’s other clear error is in alleging that there is a motivation to modify Edevold as proposed.

### **A. Present Invention**

Claim 1 is directed to an arrangement for use in providing power to an electrical device includes an inverter, a first switch, a second switch, and a bypass controller. (See, e.g., Fig. 1 of the Application, inverter 20, first switch 22, second switch 24, and the bypass control circuit 26). The first switch has an open position and a closed position, and is operably coupled to connect the inverter to the electrical device when the first switch is in the closed position. The second switch has an open position and a closed position, and is operably coupled to connect a utility power line source to the electrical device when the second switch is in the closed position. The bypass controller is operable to cause a first transition sequence in which the first switch changes to the open position and subsequently the second switch changes to the closed position.

The bypass controller is further operable to: cause continuous actuation of a first indicator when the first switch is in the closed position; cause continuous actuation of a second indicator when the second switch is in the closed position; and cause intermittent actuation of the second indicator during at least a portion of the first transition sequence. An exemplary embodiment of the indicators are indicators 28 and 30 of Fig. 1.

### **B. Non-Analogous Art**

The Examiner appears to admit that Rossow is not in the applicant’s (or Edevold’s) field of endeavor. In the Response to Arguments section of the Final Office Action, the Examiner alleges instead that Rossow is reasonably pertinent to the particular problem with which the applicant was concerned. (Final Office Action at p.2). Applicants disagree.

Edevold is directed to an uninterruptible power supply (UPS) having multiple power modules. An uninterruptible power supply is a “back-up” AC power source in the event of loss of power from utility power lines.

Rossow, by contrast, is directed to an attachment for use with a power machine, such as a fork lift or the like. (See, e.g., Fig. 1, 5; col. 1, lines 25-63). The attachment includes a control device, such as a microprocessor, or microcontroller which senses the type of attachment and controls power to the attachment accordingly. (Rossow at Abstract).

#### D. The Proposed Combination

In the rejection of claim 1, the Examiner admitted that Edevold failed to teach the use of a bypass controller that is configured to operate first and second indicators as claimed. (November 16, 2006 Office Action at p.3). The Examiner attempts to address the shortcoming of Edevold with respect to the bypass controller operation of the indicators with the teachings of Rossow

Rossow teaches LED indicators and indicia (Fig. 3b) for indicating operating modes in a power system. He goes on to teach certain LEDs being illuminated when certain switches are closed (certain operating modes) (Col. 12, lines 26-38). It would have been obvious ... to use LEDs and indication in Edevold's invention so that the operator will know the operating mode in which the system is working in. Therefore, when the first switch is closed (i.e. in inverter power state), an LED is continuously lit with matching indicia; same with when the second switch is closed (i.e. in utility power bypass states). During transition mode, the first LED will be on, and then turn off (when the first switch is opened), and the second LED will be off, and then turn on (when the second switch is closed) (intermittently). (*Id.*)

#### E. Non-Analogous Art

Edevold and Rossow are non-analogous art. Rossow is not in the field of either Edevold's or the Applicant's field of endeavor. Moreover, Rossow is not particularly pertinent to the problem of “user interfaces”, if any, faced by Edevold. Edevold is directed to uninterruptible power supplies (UPS). A UPS device typically includes basic functions such as 1) detecting a 60Hz utility power line signal anomaly; 2) switching to battery power and 3) providing battery power until utility power is again available. A UPS may provide surge protection as well. There is little or no user interaction with a UPS during its normal operation.

Rossow, by contrast, is directed to an attachment for a power machine. A “power machine” is a device that may include, for example, a fork-lift. In Rossow, the power machine is a “skid steer loader”. (Rossow at col. 1, lines 24-25). The “attachment” to the power machine is a “tool”, such as a tree spade, cement mixer, etc. which uses hydraulic actuators. The rudimentary user interface of Rossow relates to indicating whether “auxiliary hydraulics” of a skid steel loader are activated, or whether “traction lock override” is activated. These indications have nothing to do with UPS devices, nor inverters.

Rossow is not even vaguely related to “the particular problem with which the applicant was concerned”. Rossow is directed to a control attachment for hydraulic type machines. Nevertheless, the Examiner alleges that “Rossow is particularly pertinent to the problem of “user interfaces”. (Final Office Action at p.2). Applicants disagree. Rossow does not purport to teach innovative user interfaces for general applicability, nor do the user interfaces discussed in Rossow appear to have any widespread applicability. In particular, the only user interfaces shown in Rossow are in Figs. 3A, 3B and 6. None of these user interfaces have the slightest amount of general applicability outside of hydraulic lift machines. There simply is no sufficient evidence that one would consider switches and indicators specifically configured for a lift-loader to be “reasonably pertinent” to the user interface needs of UPS devices.

Rossow is not directed to user interfaces, but instead merely incorporates a minimally useful interface tailored for its specific needs.

## 2. No Motivation or Suggestion to Combine the References

The Examiner has not set forth a legally sufficient motivation or suggestion to combine the references as proposed. The Examiner stated that the motivation to “use LEDs and indicia in Edevold’s invention” is “so that the operator will know the operating mode in which the system is working in.” (Final Office Action at p.5).

The indicators of Rossow are completely inapplicable to Edevold. Rossow teaches indicators for “auxiliary hydraulics” and “traction lock override”. These features are not present in Edevold, nor in any UPS. Nevertheless, the Examiner instead relies on the broad teaching that it would be useful to know which state the UPS is in. Admittedly, it could be useful to know the state of operation. However, there is no motivation, suggestion or reason


to adopt the indicators that operate as claimed. For example, the Examiner has not provided a motivation or suggestion to modify Edevold to "cause intermittent actuation of the second indicator during at least a portion of the first transition sequence", as claimed.

Rossow's indicator bank is specifically tailored to hydraulic lift operation. The Examiner alleges that one of ordinary skill in the art would be motivated to incorporate all of the Rossow user interface into Edevold. (Final Office Action at p.3, lines 7-15). Applicants disagree. The Rossow interface would clearly have to be substantially changed to be applicable to Edevold. The Rossow interface could not be incorporated in total. More importantly, there simply is no reason to change the set-up and operation of the Rossow interface such that it just happens to operate in the same manner as the claimed device.

## **II. Conclusion**

For the foregoing reasons, the Examiner has not established a prima facie case of obviousness with respect to any of the claims. All of the claims have been rejected over Edevold and Rossow, which have been improperly combined. As a consequence, it is respectfully submitted that the rejections over Edevold and Rossow should be withdrawn or reversed.

Respectfully Submitted,



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